



Memorandum

TO: City Council

FROM: Mayor Chuck Reed

**SUBJECT: NOVEMBER BALLOT
MEASURES**

DATE: August 1, 2008

Approved

Chuck Reed

Date

8/1/08

RECOMMENDATION

1. That the City Council adopt a resolution to place the following measures before the voters at the General Election to be held on November 4, 2008:
 - a. "10% Rate Reduction and Modernization of Telecommunications Users Tax"
 - b. "Reduction by 10% and Replacement of 911 System Support Fee"
 - c. "Increase to Card Room Tax and Tables to Preserve Vital City Revenues and Services"
 - d. "Long Term Agreements in Certain City Parks"
2. That the City Council not submit the measure entitled "Council Compensation" for the November 4, 2008 General Election.

BACKGROUND

Following seven straight years of budget shortfalls and with a \$137 million structural budget deficit, San José is facing significant threats to our ability to provide vital services.

We currently receive approximately \$48 million annually in revenues from the telecommunications users tax and our 911 system support fee. Our telecommunications users tax is outdated because of new technologies and billing practices. Because it is outdated, the City's telecommunications users tax may be subject to lawsuits. Our 911 system support fee also faces legal challenges. The City could lose the entire \$48 million should it lose a possible lawsuit. These revenues pay for numerous city services including public safety, libraries, and parks. Voter approval of these taxes is critical and should be our first priority.

I share the concerns outlined in the memo from the Three-Year General Fund Structural Deficit Elimination Plan Stakeholder Group related to increasing the card room tax without providing for additional tables. Placing a simple tax increase on card rooms on the ballot invites what will likely be a well-funded campaign against the card room tax measure that could also negatively impact the telecommunications users tax and the 911 system support fee.

Following the Council's action in June to move ahead with a card club tax increase, I was informed that the card clubs would mount a substantial campaign in opposition to a tax increase unless the measure also included an increase in the number of tables allowed. The clubs said they might support a smaller increase in the tax with an increase in tables in each club.

In light of this opposition, which could sink all of our ballot measures, I informed the card clubs that I would consider bringing the table increase issue back to the Council but additional polling would be required and that they should pay for it. They agreed to do so, and the committee commissioned a private poll of voters likely to vote in November. The polling data indicated that the public would support a 2.5 % tax increase with an increase in the number of tables:

10 tables each: 52% definitely yes, 16% probably yes.

15 tables each: 50% definitely yes, 13% probably yes.

The polling firm recommended that the "probable" yes responses should be discounted by half to get a better prediction of the outcome. Even so, either question should win.

My staff members have met with the card room representatives to discuss alternatives, including a proposal that would add tables at the time the tax rate is increased. Based on these discussions, I recommend bringing to the voters a 2.5% increase in the tax on gaming revenue and allowing up to an additional nine tables at each club while maintaining the current definition of revenues in Title 16.

Representatives from the card rooms indicated they would be supportive of this proposal and would be likely to fund a substantial campaign to get it approved by the voters. This could generate as much as \$5.5 million in critical general fund revenue. This revenue would also offset revenues that would be lost through reductions in the tax rate on the telecommunications users tax measures and the 911 system support fee, which I am recommending below.

In addition to the questions about the card clubs, the private poll also included questions about the proposed 911 fee and the telecommunications users tax to get additional information about the best chance of winning approval. The polling numbers were consistent with the city's poll, but the polling firm recommended that the "probable" yes responses should be discounted by half to get a better idea as to the ultimate outcome. If so, both polls indicate that both measures would likely get less than 50% support from the voters.

I also have concerns about possible negative reaction that voters may have because of the number of tax measures on this November ballot. In addition to whatever measures the City Council places on the November ballot, the voters also may be considering statewide tax and bond measures, a Santa Clara County Hospital Bond, the VTA sales tax for BART, and local school district bond and parcel tax measures. Having many tax measures on the same ballot

negatively impacts the likelihood of voters supporting all of the measures. In addition, a campaign to support the two tax measures is likely to be a low budget operation, given the nature of the measures and the short time to raise money.

In light of all these factors, we need to structure the two tax measures in the best way to have the best chance of success. We know from the city poll that the main reason for support for the measures was they were tax reductions. The main reason for opposition was it's a tax. The City poll shows that after arguments are made definite and probably yes drop below 50%. For this reason, I recommend that Council move forward with both the telecommunications users tax and the 911 system support fees as 10% reductions.

Finally, based on poor results from the city poll on the Parks and Council Salary Measures, I recommend that the timeframe outlined in the Parks Measure be reduced from 30 years to 20 years and that the City Council drop the Council Salary Measure.

The recommended ballot language for these measures is as follows:

1. 10% Rate Reduction and Modernization of Telecommunications Users Tax
Shall an ordinance be adopted to reduce the telecommunications users tax rate from 5% to 4.5%; modernize the ordinance and apply the tax equally regardless of technology used to support essential city services such as police, fire, emergency response, street maintenance, parks and libraries while maintaining current exemptions; subject to existing audits?
2. Reduction by 10% and Replacement of 911 System Access Fee
Shall an ordinance be adopted to eliminate the \$1.75 911 fee and replace it with a voter approved 10% reduced tax of \$1.57 with a corresponding reduction for commercial-type trunk lines, to support essential City services such as police, fire, emergency response, parks and libraries; and continue exemptions for low-income senior citizens or low-income disabled households?
3. Increase to Card Room Tax and Tables to Preserve Vital City Revenues and Services
To help prevent cuts in general City services such as police and fire, street maintenance, parks and libraries, shall an ordinance be adopted to increase the existing business tax on card room revenues from 13% to 15.5%, and to allow the two card rooms to add 9 tables each?
4. Long Term Agreements in Certain City Parks
To generate revenue for park improvements and other recreational purposes, shall the City Charter be amended to allow the City Council to approve park use agreements for up to 20 years in parks larger than five acres, provided the agreements enhance the recreational purposes of the park?